



**4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2017-0023]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 25 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** The exemptions were applicable on October 19, 2017. The exemptions expire on October 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## **II. Background**

On September 18, 2017, FMCSA published a notice announcing receipt of applications from 25 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (82 FR 43647). The public comment period ended on October 18, 2017, and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual

acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

### **III. Discussion of Comments**

FMCSA received three comments in this proceeding. Mr. Cory Manthei commented however his comments are out of scope for this office. Mr. Ryan Pitre commented that FMCSA should revisit the vision qualifications and stated that these are new regulations. In July 1992, the Agency first published the criteria for the Vision Waiver Program, and are therefore not new regulations. Mr. Brian Weaver commented that he believes that if a driver is able to back a trailer in a safe manner then those drivers are okay to obtain a vision exemption. FMCSA has established program criteria drivers must meet in order to obtain a Federal vision exemption, functional testing is not one of them.

### **IV. Basis for Exemption Determination**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the September 18, 2017, Federal Register notice (82 FR 43647) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 25 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, cataract, chorioretinal scar, complete loss of vision, fibrotic scarring, macular coloboma, phthisis bulbi, prosthetic eye, retinal detachment, retinal neovascularization, and retinal scarring. In most cases, their eye conditions were not recently developed. Nineteen of the applicants were either born with their vision impairments or have had them since childhood. The six individuals that sustained their vision conditions as adults have had it for a range of four to 45 years. Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These

conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for five to 56 years. In the past three years, one driver was involved in a crash, and two drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

## **V. Conditions and Requirements**

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is

self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## **VI. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## **VII. Conclusion**

Based upon its evaluation of the 25 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Paul A. Bartels (WI)	Harold J. Bartley, Jr. (KY)
Charles C. Berns (IA)	Eric L. Boyle, Jr. (MD)
Jeremiah E. Casey (MO)	Leonard M. Cassieri (CA)
Randy J. Conrad (IA)	Jimmie E. Curtis (NM)
Daniel E. Delano (VA)	Jonathan P. Edwards (PA)
James A. Green (IL)	Richard Healy (MD)
Tommy G. Hillis (TX)	Richard A. Honstad (MN)
Stephen M. Lovell (TX)	Thomas P. Maio (ME)
Carlos Marquez (WI)	Jason L. McBride (MI)
Dennis M. Olson (WI)	Kameron W. Quinalty (AR)
Daniel C. Sagert (WI)	Robert D. Steele (WA)
Richard C. Strassburg (NY)	Jeremy E. Studebaker (IN)

Daniel D. Woodworth (LA)	
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In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: January 5, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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